

IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MARYLAND  
(Northern Division)

JAMAAL MCCALLISTER  
1026 E. 20<sup>th</sup> Street  
Baltimore, Maryland 21218

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*Plaintiff,*

\*

Civil Action 1:21-cv-1639

v.

\*

CITIMORTGAGE, INC.  
As Successor in Interest by Merger to  
CITIFINANCIAL MORTGAGE CO., INC.  
MS 140  
1000 Technology Drive  
O'Fallon, MO, 63304

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and

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CITIFINANCIAL MORTGAGE CO. INC.  
101 Merritt 7, 1st Fl.  
Norwalk, Connecticut 06851

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and

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CMINY, Inc.  
As Successor in Interest by Merger to  
CITIMORTGAGE, INC.  
MS 140  
1000 Technology Drive  
O'Fallon, Missouri 63304

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and

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ELLA ROBINSON  
502 N. Independence Avenue, Apt 10  
Independence, Virginia 24348

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*Defendants.*

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**NOTICE OF REMOVAL**

Defendant, CitiMortgage Inc., a New York corporation (“CitiMortgage”), formerly known as CMINY, Inc. (“CIMNY”), individually and as successor by merger to the former CitiFinancial Mortgage Company, Inc., by its undersigned attorneys, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby removes this civil action from the Circuit Court for Baltimore City to this Honorable Court, and states as follows:

1. On October 16, 2020, Jamaal McCallister (the “Plaintiff”) filed a three-count Complaint in the Circuit Court for Baltimore City, Case Number 24-C-20-004332 (the “State Court Action”), alleging claims for negligence, negligent misrepresentation, and private nuisance against the original Defendants in this action, Walter Johnson and Patricia Jones Johnson (the “Johnsons”), Ella Robinson, CMINY, Inc., CitiFinancial Mortgage Co. Inc., and CitiMortgage arising from the Plaintiff’s alleged exposure to lead-based paint at two different properties in Baltimore City, Maryland between 2001 through 2004. Copies of the Summons issued to CitiMortgage and the Complaint in the State Court action served on December 3, 2020 are attached hereto as **Exhibit A**.

2. Due to the Plaintiff’s recent voluntarily dismissal of the Johnsons who were the only Maryland Defendants named in the Complaint. the Court now has federal subject matter jurisdiction over this controversy under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75, 000 and this civil action is now between citizens of different States.

3. 28 U.S.C. § 1446(b)(3) provides that “... if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from

which it may first be ascertained that the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3) (emphasis added).

4. On June 3, 2021, Plaintiff filed a voluntary Stipulation of Dismissal Without Prejudice—dismissing Defendants Walter Johnson and Patricia Jones Johnson. A copy of Plaintiff’s Stipulation of Dismissal Without Prejudice is attached hereto as **Exhibit B**.

5. As Defendants Walter Johnson and Patricia Jones Johnson were the only Maryland defendants named in the Complaint, and the remaining Defendants are individual or corporate citizens of other States, there is now complete diversity between the Plaintiff and the remaining Defendants as a result of the Johnsons’ voluntary dismissal.

6. This Notice of Removal has been filed within thirty (30) days of the filing of the Stipulation of Dismissal of the Johnsons. Thus, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(3). See **Exhibit B**.

7. Pursuant to the United States Constitution, Amend. XIV, Section 1, “[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.” Plaintiff resides at 1026 E. 20<sup>th</sup> Street, Baltimore, Maryland 21218 and therefore is a citizen of Maryland. See Caption of Complaint at **Exhibit A**.

8. Defendant Ella J. Robinson allegedly resides in Virginia at 502 N. Independence Avenue, Apt 10, Independence, Virginia 24348 and therefore is a citizen of Virginia. See Caption of Complaint at **Exhibit A**. The docket in the State Court Action reflects that Ms. Robinson has not entered an appearance as of the date of this Notice of Removal. **Exhibit C**.

9. For diversity purposes, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business...” 28 U.S.C. § 1332(C)(1).

10. CitiMortgage is a legal entity incorporated under the laws of the State of New York and maintains a principal place of business at MS 140, 1000 Technology Drive, O'Fallon, Missouri. See **Exhibit D**. Accordingly, CitiMortgage is either a citizen of New York and Missouri.

11. The former company known as CitiFinancial Mortgage Company, Inc. merged into CitiMortgage, Inc. (the New York corporation referenced in paragraph 10 above) on 6/29/2006, prior to the filing of this suit. Thus, CitiFinancial Mortgage Company, Inc. should not have been joined as a Defendant herein as it no longer exists. See **Exhibit E**.

12. The former company known as CMINY, Inc. (a New York corporation) became the successor by merger to a Delaware corporation known as CitiMortgage, Inc. effective 5/1/2005 and then changed its name to CitiMortgage Inc. on 5/4/2005. See **Exhibit F**.

13. Thus, CIMNY, Inc., which was a New York corporation prior to its name change should not have been joined as a separate Defendant herein since it no longer exists under that name and, as of 5/4/2005, became one and the same as CitiMortgage, Inc. (the entity incorporated in New York referenced in Paragraph 10 above). See **Exhibits D and F**.

14. As none of the remaining Defendants are citizens or residents of Maryland, there is complete diversity of citizenship between the parties.

15. Plaintiff's Complaint seeks damages in excess of \$75,000. See **Exhibit A**, ad damnum clause at Counts One, Two and Three; ¶ 23.

16. Accordingly, this Court has jurisdiction over this controversy under 28 U.S.C. § 1332, because there is diversity of citizenship amongst the parties and the amount in controversy exceeds the jurisdictional requirement stated in 28 U.S.C. § 1332(b).

17. A genuine and authentic copy of all pleadings, process and orders served upon CitiMortgage in the State Court Action is attached hereto collectively as **Exhibit A**, pursuant to the Rules of this Court.

18. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been served upon all parties and filed with the Circuit Court for Baltimore City. **Exhibit G**.

WHEREFORE, Defendant, CitiMortgage, Inc., hereby removes this civil action to the United States District Court for the District of Maryland.

WOMBLE BOND DICKINSON (US) LLP

/s/ Virginia W. Barnhart

Virginia W. Barnhart (Bar No. 03345)

100 Light Street 26<sup>th</sup> Floor

Baltimore, MD 21202

Phone: (410) 545-5803

Email: Virginia.Barnhart@wbd-us.com

/s/ Sarah E. Meyer

Sarah E. Meyer (Bar No. 29448)

100 Light Street 26<sup>th</sup> Floor

Baltimore, MD 21202

Phone: (410) 545-5807

Email: Sarah.Meyer@wbd-us.com

/s/ Chukwukpee Nzegwu

Chukwukpee Nzegwu (Bar No. 21730)

100 Light Street 26<sup>th</sup> Floor

Baltimore, MD 21202

Phone: (410) 545-5861

Email: Chukwukpee.Nzegwu@wbd-us.com

*Attorneys for Defendant, CitiMortgage, Inc.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on 2nd day of July, 2021, a copy of the foregoing was served, via first class mail, postage prepaid upon each of the following:

Matthew Thompson, Esquire  
Cara L. O'Brien, Esquire  
Law Offices of Evan K. Thalenberg, P.A.  
16 E. Lexington Street  
Baltimore, Maryland 21202

*Attorneys for Plaintiff*

Ella J. Robinson  
502 N. Independence Avenue, Apt. 10  
Independence, Virginia 24348

A courtesy copy of this Notice of Removal was served by email upon counsel for the Plaintiff.

/s/ Sarah E. Meyer

Sarah E. Meyer (Bar No. 29448)